

State of California
California Regional Water Quality Control Board
Colorado River Basin Region

MINUTES OF BOARD MEETING

Wednesday, May 13, 2015, 9:00 a.m. to 11:29 p.m.

California Regional Water Quality Control Board
Colorado River Basin Region
73-720 Fred Waring Drive
Palm Desert, CA 92260

CALL TO ORDER

The California Regional Water Quality Control Board, Colorado River Basin Region, was called to order by Chair Ellen Way at 09:03 a.m. on May 13, 2015, at Palm Desert, California.

PLEDGE OF ALLEGIANCE

ROLL CALL (Board Members Only)

Regional Board Members Present:

Buford Crites, Tom Davis, Nancy Wright, Ellen Way (Ed Muzik – Absent)

The Board Clerk stated that a quorum was present.

Regional Water Board Counsel: Tom Vandenberg

State Water Resources Control Board Liaison: Ms. Francis Spivy-Weber

Office of Enforcement Counsel: David Boyers and Paul Ciccarelli

Regional Board Staff Present:

Robert Perdue, Jose Angel, Soni Wells, Mary Castañeda, Abdi Haile, John Carmona, Joan Stormo, Nadim Shukry-Zeywar, Mary Serra, Kai Dunn, Doug Wylie, Maribel Jernegan, Rosalyn Fleming, Jose Cortez, Liann Chavez, Maria Davydova, Jose Figueroa-Acevedo, Herb Jackson, Jennie Snyder, Anders Wistrom

Others Present:

Leslie Laudon, SWRCB
Lynn Joy Rogers, Water Advocate, La Quinta
Cliff Parli, DOGGR
Anelth Lue, Cal Energy
Jennifer Henke, CVMVCD

MINUTES

1. Minutes of March 12, 2015 Board Meeting

MOTION: Tom Davis moved, Buford Crites seconded, to approve Minutes. Motion was carried with Nancy Wright abstaining due to being absent for that meeting.

PUBLIC FORUM

2. Lynn Joy Rogers, water advocate, expressed concern about a real estate development in La Quinta with a proposed larger lake to replace the existing lake in La Quinta due to drought conditions, and requested Board involvement. Ms. Rogers also stated that she would like a citizen advisory council be formed as a way to provide outreach to the community, and that she made this recommendation to the Coachella Valley Water District. It was explained to her that the Board only has jurisdiction over water quality matters. SWRCB Vice Chair Spivy-Weber also provided Ms. Rogers with additional information to address her concerns.

UNCONTESTED WASTE DISCHARGE REQUIREMENTS

3. R7-2015-0002 National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Valley Sanitary District, Valley Sanitary District Wastewater Treatment Plant – Indio, Riverside County (Renewal)

MOTION: Buford Crites moved, Nancy Wright seconded, and the motion carried unanimously Order R7-2015-0002 be adopted.

4. R7-2015-0003 National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for the City of Coachella and Coachella Sanitary District, Coachella Sanitary District Wastewater Treatment Plant – Coachella, Riverside County (Renewal)

MOTION: Buford Crites moved, Nancy Wright seconded, and the motion carried unanimously Order R7-2015-0003 be adopted.

5. R7-2015-0015 Revised Waste Discharge Requirements for Magma Power Company, Owner, and CalEnergy Operating Corporation, Operator, J.J. Elmore Geothermal Power Plant, 786 West Sinclair Road, Calipatria, Imperial County

MOTION: Buford Crites moved, Nancy Wright seconded, and the motion carried unanimously Order R7-2015-0015 be adopted with Errata.

6. R7-2015-0019 Revised Waste Discharge Requirements for County of San Bernardino, Twentynine Palms Landfill, Owner/Operator, 222 West Hospitality Lane, San Bernardino, for a Facility located in San Bernardino County

MOTION: Buford Crites moved, Nancy Wright seconded, and the motion carried unanimously Order R7-2015-0019 be adopted.

7. R7-2015-0020 Revised Waste Discharge Requirements for Magma Power Company, Owner, and CalEnergy Operating Corporation, Operator, Leathers Geothermal Power Plant, 342 West Sinclair Road, Calipatria, Imperial County

MOTION: Buford Crites moved, Nancy Wright seconded, and the motion carried unanimously Order R7-2015-0020 be adopted with Errata.

8. R7-2015-0023 Waste Discharge Requirements, Spreckels Sugar Company Owner/Operator, Recycled Process Water Holding Basin – Brawley, Imperial County (Update)

MOTION: Buford Crites moved, Nancy Wright seconded, and the motion carried unanimously Order R7-2015-0023 be adopted with Errata.

9. R7-2015-0024 Waste Discharge Requirements for Emerald Cove Resort, LLC, Owner/Operator, Emerald Cove Resort Domestic Wastewater Disposal Ponds, U.S. Bureau of Land Management, Landowner, Northeast of Earp, San Bernardino County (Update)

MOTION: Buford Crites moved, Nancy Wright seconded, and the motion carried unanimously Order R7-2015-0024 be adopted.

10. R7-2015-0025 Waste Discharge Requirements for Mitchell's Camp Family Association, Owner/Operator, Domestic Wastewater Treatment System in Palo Verde, Imperial County (Update)

MOTION: Buford Crites moved, Nancy Wright seconded, and the motion carried unanimously Order R7-2015-0025 be adopted.

CHANGE OF OWNERSHIP

11. R7-2015-0026 Change of Name and/or Ownership of Facilities Having Waste Discharge Requirements

MOTION: Buford Crites moved, Tom Davis seconded, and the motion carried unanimously Order R7-2015-0026 be adopted.

RESOLUTION

12. R7-2015-0021 Resolution No. R7-2015-0021, Adoption of the Emergency, Abandoned, Recalcitrant (EAR) Account Site List FY 2015-16

Mr. Crites asked for clarification on the title of this item and asked whether cleanup of the Salton Sea can be included in the List. Mr. Angel explained that the List only applies to former sites that, for example, had an Underground Storage Tank that caused contamination. A discussion ensued on the lack of action to address the Salton Sea problems and the need to appoint a State Czar to address them. It was pointed out that the Governor is aware of the problems and likely will be providing direction to State Agencies.

MOTION: Tom Davis moved, Nancy Wright seconded, and the motion carried unanimously Order R7-2015-0021 be adopted as proposed by staff.

RESCISSION

13. R7-2015-0027 Rescission of Board Order 85-016 WDRs for Havasu Palms Mobile Home and RV Park Landfill for Nonhazardous Class II Waste Lake Havasu, San Bernardino County, and; Board Order 88-056 WDRs for Farm Air Service for Nonhazardous Surface Impoundment, Imperial County

Supervising WRCE Mary Serra explained that the Havasu Ponds Mobile Home and RV Park Landfill is on the Chemehuevi Reservation and therefore, only the Federal Government, not the Regional Board, has jurisdiction. Board Members requested further discussion of this issue during Board Member Comments.

MOTION: Tom Davis moved, Nancy Wright seconded, and the motion carried unanimously Order R7-2015-0027 be adopted.

ADMINISTRATIVE CIVIL LIABILITY ORDER

14. R7-2015-0029 Proposed Administrative Civil Liability Order R7-2015-0029 in the matter of Peter Ormond, Date Gardens Mobile Home Park WWTP, El Centro, Imperial County

This contested matter was considered by the Board for adoption in accordance with administrative adjudicative procedural requirements. Accordingly, the Prosecution Team presented its case in chief. Because the Discharger did not attend this noticed hearing, however, it did not present any defense. The Prosecution Team recommended approval of the Mandatory Minimum Penalties specified in the proposed ACL Order of \$42,000. After all evidence and testimony were submitted by the Prosecution Team, Board Chair Way closed the public hearing to allow the Board members to discuss the matter. Board Member Davis recommended doubling the penalty based on the Discharger's recalcitrance (failure to appear for the hearing and respond to any evidentiary deadlines) and history of noncompliance (a previous enforcement order and penalty adopted by the Board was paid very late). In response to Mr. Davis's question whether such an increase above the Mandatory Minimum Penalties would be allowed, Regional Board counsel responded by indicating that would be allowed, since the penalties were "minimum" penalties, so long as appropriate findings were made to support such an increase. Board member Crites then moved, and Board member Davis seconded, to assess the Discharger MMPs of \$42,000 plus a discretionary penalty of an additional \$42,000. The motion was unanimously approved. Shortly thereafter during the same meeting, Board counsel advised the Board that due to due process concerns (no notice to the Discharger that the penalty might be increased) and Water Code statutory discretionary penalty assessment factors that needed to be considered by the Board and documented in a proposed ACL Order, the Board should reconsider the motion. Upon that legal recommendation, Board member Davis moved, and Board member Crites seconded, a motion for reconsideration of the original motion, which was unanimously approved. A new motion was then introduced, as described below.

MOTION: Tom Davis moved, Nancy Wright seconded, the motion to adopt the proposed ACL Order R7-2015-0029 with the penalties as originally specified of \$42,000.

Upon voting, the motion failed 3 – 1 (Ayes: Tom Davis; Nays: Buford Crites; Nancy Wright; Ellen Way).

OTHER BUSINESS

15. Informational Update: State Water Resources Control Board Activities
SWRCB Vice-Chair Fran Spivy-Weber discussed the upcoming Water Quality Coordinating Committee meeting scheduled for October 12 to October 13, 2015, in Sacramento, and highly recommended Regional Board Members attend. She also discussed the SWRCB's and other agencies' efforts to address the on-going drought emergency, including the SWRCB's recent allocation of new funding sources. Ms. Spivy-Weber referenced the March 18, 2015, SWRCB Salton Sea Workshop and the necessity of multi-agency coordination.
16. Informational Update: Proposition 1
Assistant Deputy Director Leslie Laudon, SWRCB Division of Financial Assistance, described Proposition 1, the Water Quality Supply and Improvement Act of 2014. Prop 1 authorizes \$7.545 billion in General Obligation Bonds for water projects. The SWRCB will administer \$2.1 billion of the funds for wastewater, stormwater, water recycling, ground water and drinking water programs. Ms. Laudon also described the application process, stressing that potential recipients of funding should start applying as soon as possible, using the online Financial Assistance Application Submittal Tool (FAAST).
17. Informational Update: Coachella Valley Salt Nutrient Management Plan Update –AH/JA
The Board was provided with a written progress report on this Item.
18. Colorado River Basin Water Board Executive Officer's Report — RP
Executive Officer Robert Perdue provided an overview of the April 20, 2015, Chairs' Meeting at CalEPA in Sacramento. Participants included Governor's Office and CalEPA Staff. Subjects discussed: Marijuana Grow issues; Homeless Encampments, Human Right to Water for Disadvantaged Communities and Drought water quality and water quantity issues. Other subjects discussed were the Drinking Water program and state financial matters including the budget and Water Board grant and loan funding. Mr. Perdue pointed out the meeting was very well organized. At the direction of the SWRCB Vice Chair and RB Members, Mr. Perdue indicated he would arrange a Drought Workshop to be held at RB7 in the last weeks of June 2015.
Mr. Angel reported that he and Jose Figueroa attended the policy meeting of the US Members of the Binational Technical Committee for the New River/Mexicali Sanitation Program. He added that there were significant agreements reached during the meeting as to how the US should deal with the current and emerging sewage problems in Mexicali. Ms. Way stated that she would forward to the Board Members a write up by Mr. Angel with the details on the meeting and thanked Mr. Angel for his work.
19. Colorado River Basin Water Board Member Comments
Members Davis and Crites requested staff pursue clarifying the RB's potential arrangements with tribes having discharges on tribal land which could impact water quality. Chair Way requested a consistent approach on these arrangements.
Vice Chair Wright requested RB Staff arrange for Mr. Phil Rosentrater, Deputy Director, Economic Development Agency Riverside County and Roger Shintaku, General Manager, Salton Sea Authority present an informational item at an upcoming meeting. Additionally, Ms. Wright described ongoing Wetlands meetings with SWRCB member Steve Moore.

Mr. Crites and Mr. Davis reiterated their interest in actions such as funding for the Salton Sea Restoration.

20. Colorado River Basin Water Board Chair's Report
Chair Way described her attendance at a meeting held by Coachella Valley Water District which included City, Elected, and Appointed Leaders, to discuss impending drought rules. The CVWD Board voted the following day to adopt rules addressing the drought emergency.

CLOSED SESSION

21. At any time during the regular session, the Board may adjourn to meet in closed session to consider the appointment, employment, evaluation of performance, or dismissal of a public employee [Authority: Government Code Section 11126(a)]; to consider evidence received in an adjudicatory hearing and deliberate on a decision to be reached based on that evidence [Authority: Government Code Section 11126(c)(3)]; to discuss significant exposure to litigation [Authority: Government Code Section 11126(e)(2)(B)(i)]; to discuss whether to initiate litigation [Authority: Government Code Section 11126(e)(2)(C)(i)]; or to discuss initiated litigation [Authority: Government Code Section 11126(e)]. Discussion of litigation is within the attorney-client privilege and may be held in closed session [Authority: Government Code Section 11126(e)(2)].

a. EXECUTIVE OFFICER PERFORMANCE EVALUATION

The Board met in closed session with the Executive Officer to discuss his performance.

ARRANGEMENTS FOR NEXT BOARD MEETING: 10:00 a.m., THURSDAY, JUNE 11, 2015, YUCCA VALLEY, CA.

ADJOURNMENT OF BOARD MEETING: 11:29 p.m.